

DG:JV/JKW
F. #2020R00002

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

DAVID GARY BISHOFF,
also known as “Bobby Fischer,” and
BRYCEN KAY MILLETT,
also known as “Brett Johnson,”

Defendants.

TO BE FILED UNDER SEAL

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF APPLICATION FOR
ARREST WARRANTS

(T. 18, U.S.C., §§ 1349 and 3551 et seq.)

Case No. 22-MJ-249

EASTERN DISTRICT OF NEW YORK, SS:

I, JESSICA BERGER, being duly sworn, depose and state that I am a Special Agent with the Federal Bureau of Investigation (“FBI”), duly appointed according to law and acting as such.

In or about and between October 2018 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DAVID GARY BISHOFF (“DAVID BISHOFF”), also known as “Bobby Fischer,” and BRYCEN KAY MILLETT (“BRYCEN MILLETT”), also known as “Brett Johnson,” together with others, did knowingly and willfully conspire to devise a scheme and artifice to defraud one or more health care benefit programs, as defined in Title 18, United States Code, Section 24(b), and to obtain, by means of one or more materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, one or more health care benefit programs, in connection with the delivery of and payment for

health care benefits, items and services, in violation of Title 18 United States Code, Section 1347.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for arrest warrants for the defendants DAVID BISHOFF and BRYCEN MILLETT.
2. I have been a Special Agent with the FBI since March 2017. Since October 2017, I have been assigned to the New York Health Care Fraud Task Force. I have personally participated in multiple investigations of fraud in billing for health care services by physicians and pharmacies. I am authorized and have received training to investigate violations of the laws of the United States, and to execute warrants under the authority of the United States. I am familiar with the records and documents maintained by health care providers and pharmacies. Through my training, education and experience, I am familiar with the techniques and methods of operation used by individuals involved in criminal health care fraud to conceal their activities and avoid detection by law enforcement.
3. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation described herein, as well as my review of documents, information obtained from witnesses, and my discussions with other law enforcement personnel and witnesses. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge.
4. Because this affidavit is being submitted for the limited purpose of seeking warrants to arrest the defendants DAVID BISHOFF and BRYCEN MILLETT, I have

not set forth each and every fact learned during the course of this investigation, but simply those facts necessary to establish probable cause to support issuance of the warrants. Except where otherwise noted, all conversations and documents described in this affidavit are set forth in part and in substance only.

PROBABLE CAUSE

I. The Defendants and Relevant Individuals and Entities

5. The defendant BRYCEN MILLETT, also known as “Brett Johnson,” was a resident of Saint George, Utah.¹ As set forth in greater detail infra, in or about and between at least October 2018 and the present, MILLETT owned and/or directed the operations of at least three call centers, including Advanced Response LLC (“Advanced Response”), Brace Today Inc. (“Brace Today”) and Midway Connection Inc. (“Midway Connection”) (collectively, the “Call Centers”). The Call Centers all operated in Utah before the co-conspirators orchestrating the scheme described herein moved the scheme’s call center operations overseas to Russia and other foreign countries.

¹ Based on my review of documents and information obtained from witnesses, grand jury subpoenas and court-authorized search warrants in this investigation, I am aware that an individual using the name “Brett Johnson” is a member of the conspiracy. I believe there is probable cause to establish that “Brett Johnson” is an alias used by defendant BRYCEN MILLETT. Specifically, “Brett Johnson” used a phone number (the “Johnson Number”) known to your affiant to communicate with Individual-1, a pharmacist whose identity is known to your affiant, and held himself out to Individual-1 as “Brett.” However, MILLETT’s co-conspirator Dela Saidazim saved the Johnson Number in her phone as “Brycen” and, on at least two occasions, sent text messages to the Johnson Number to “Bry” and “Bryce.” In addition, the last Internet Protocol (“IP”) address captured in a subpoena return for a phone number that “Brett Johnson” used to communicate via WhatsApp with co-conspirators is an IP address registered to MILLETT’s spouse, Kaitlin Millett, and is associated with the email address bkmillet1@gmail.com. Finally, “Brett Johnson” used the email address bry12@protonmail.com to communicate in furtherance of the scheme, further suggesting that his first name is Brycen.

6. The defendant DAVID BISHOFF, also known as “Bobby Fischer,” was a resident of Saint George, Utah.² As set forth in greater detail infra, BISHOFF owned Brace Today before the defendant BRYCEN MILLETT became the owner. BISHOFF and MILLETT, directed the operations of the Call Centers in or about and between at least October 2018 and September 2019.

7. Hafizullah Ebady (“Ebady”) was a resident of New Jersey. Ebady was the owner and operator of Open A Pharmacy LLC, a New Jersey limited liability corporation that helped prospective pharmacy owners purchase, open and operate pharmacies. Ebady directed the purchase and operation of pharmacies controlled by the defendants DAVID BISHOFF and BRYCEN MILLETT’s co-conspirators.

8. Dela Saidizim (“Saidazim”) was a resident of New York.³ Saidazim recruited licensed physicians to purportedly review prescriptions by telemedicine providers. Saidazim also directed the actions of others in connection with the purchase and operation of pharmacies controlled by the defendants DAVID BISHOFF and BRYCEN MILLETT’s co-conspirators. On November 8, 2021, a grand jury in the Eastern District of New York returned an indictment charging Ebady and Saidazim with Conspiracy to Commit Health Care Fraud, in

² Based on my review of documents and information obtained from witnesses in this investigation, I am aware that an individual using the name “Bobby Fischer” is a member of the conspiracy. I believe there is probable cause to establish that “Bobby Fischer” is an alias used by the defendant DAVID BISHOFF. Specifically, in a June 2019 WhatsApp message, “Bobby” sent Dela Saidazim, a co-conspirator, his credit card information and billing information, including his true name “David Bishoff” and a Utah address where, according to records obtained from the Utah Department of Motor Vehicles (“DMV”), BISHOFF resided. Also, Saidazim referred to “Bobby” as “Dave” and “D” in WhatsApp messages.

³ Between January 2020 and June 6, 2021, Saidazim traveled between New York and Russia.

violation of 18 U.S.C. § 1349, and Health Care Fraud, in violation of 18 U.S.C. § 1347, in connection with the scheme described herein. (See 21-CR-564 (EFK), ECF Dkt. No. 29 (Indictment).)

II. Overview of the Fraud Scheme

9. Based on the investigation to date and my experience and training, I believe that beginning in or about at least October 2018, the defendants DAVID BISHOFF and BRYCEN MILLETT and their co-conspirators engaged in a scheme to fraudulently bill private health care benefit programs (“Private Insurers”) for fraudulent telemedicine prescriptions.⁴ First, BISHOFF, MILLETT and their co-conspirators used at least the three Call Centers in Utah to contact individuals enrolled in Private Insurers (“the Beneficiaries”) and offer medications at no cost to the Beneficiaries and without any medical exam to determine the medical necessity for those medications. Some of the Beneficiaries agreed to receive these medications and some did not, but in either case, BISHOFF and MILLETT’s co-conspirators generated fraudulent prescriptions for medications for these Beneficiaries.

10. Next, the defendants DAVID BISHOFF and BRYCEN MILLETT, together with their co-conspirators, actually created these fraudulent prescriptions by directing Saidazim and other co-conspirators to recruit licensed physicians. The co-conspirators advised the licensed physicians that they would review decisions made by other mid-level practitioners (e.g., nurse practitioners and physician’s assistants) to prescribe medications to the Beneficiaries after consulting with them via telemedicine. Based on the investigation to date, there is no evidence that any actual mid-level practitioners recommended or prescribed medication

⁴ The Private Insurers constitute health care benefit programs under 18 U.S.C. § 24(b).

following a telemedicine visit.

11. In addition, many of the physicians did not know that the prescriptions would be issued under the physicians' National Provider Identifier ("NPI")⁵ numbers, identifying the physicians as the prescribers.⁶ Instead, the defendants BRYCEN MILLETT and DAVID BISHOFF's co-conspirators misappropriated the licensed physicians' NPI numbers without their authorization and used them to issue the fraudulent prescriptions for the Beneficiaries.

12. Finally, in order to monetize the fraudulent prescription claims, the defendant DAVID BISHOFF and others fraudulently acquired and controlled brick and mortar pharmacies with pre-existing pharmacy board registrations and insurance relationships with the Private Insurers (the "Scheme Pharmacies"). BISHOFF and his co-conspirators used straw buyers to purchase the Scheme Pharmacies in order to conceal their relationships to them. BISHOFF and MILLETT's co-conspirators caused the Scheme Pharmacies to submit reimbursement requests for the fraudulent prescriptions to the Private Insurers using the prior pharmacy owners' registration information or the names of straw owners. In many cases, the Beneficiaries did not receive the prescriptions that were purportedly filled by the Scheme Pharmacies.

13. Once the Private Insurers realized that the Scheme Pharmacies were seeking reimbursement for fraudulent prescriptions, the Private Insurers ended their relationships

⁵ NPI numbers are unique 10-digit numbers issued by the Centers for Medicare & Medicaid Services to health care providers in the United States.

⁶ While multiple physicians interviewed as part of the investigation have advised law enforcement agents that the physicians were not told that the prescriptions would be issued under their names and NPI numbers, the investigation has obtained documents reflecting that in some instances, some physicians approved the prescriptions by electronically signing "Rx Script Pad[s]" that listed the physicians as "Prescriber," and signing under "Prescriber's signature."

with the Scheme Pharmacies, after which the defendants' co-conspirators abandoned the Scheme Pharmacies and continued the scheme at other Scheme Pharmacies.

14. As a result of the fraudulent scheme, Private Insurers have paid at least tens of millions of dollars in reimbursements for fraudulent prescriptions.

III. Use of the Call Centers to Perpetuate the Fraud

A. Ownership and Control of the Call Centers

15. Brace Today was incorporated in Utah in or about January 2016, and operated from Saint George, Utah. Brace Today operated as a call center. In a publicly-available job posting from 2016 on jobsearcher.com for a "Call Center Agent," Brace Today described itself as a "growing call center that specializes in Tele-Medicine." The posting stated, in relevant part: "You will be assisting patients over the phones and reviewing some of the covered benefits available to them through their insurance plans." In or about February 2016, the defendant DAVID BISHOFF identified himself as Brace Today's owner on a Brace Today bank account. In or about October 2018, BISHOFF approved the defendant BRYCEN MILLETT as an authorized signer on Brace Today's bank account, replacing BISHOFF as owner of Brace Today.⁷ In bank records, MILLETT identified himself as the owner of Brace Today. In a voluntary interview, Individual-2, a former Brace Today employee whose identity is

⁷ There is evidence that the defendants DAVID BISHOFF and BRYCEN MILLETT continued to work together after MILLETT replaced BISHOFF as Brace Today's owner. Among other things, flight records confirm that, as recently as October 17, 2021, MILLETT and BISHOFF traveled from Utah, where they each reside, to Moscow, Russia together. Based on my involvement in the investigation, I am aware that the conspiracy operates in Russia in addition to the United States. In addition, between September 2021 and February 2022 alone, BISHOFF and MILLETT exchanged over one thousand direct messages through WhatsApp and over another thousand messages in group messages including BISHOFF, MILLETT and other co-conspirators.

known to your affiant, told law enforcement agents that, during the time that he/she worked for Brace Today from approximately 2018 to 2019, MILLETT was his/her primary contact.

Individual-2 told law enforcement agents that, in September 2018, Brace Today moved to a different location in Utah and began operating as Advanced Response.

16. Advanced Response was a Limited Liability Company registered in Utah in or about August 2018, and operated from Saint George, Utah. Advanced Response operated as a call center. Individual-2 told law enforcement that, after Brace Today changed offices and began operating under the name Advanced Response in or about September 2018, he/she transitioned to working at Advanced Response, reporting to the defendant BRYCEN MILLETT.

17. Individual-2 also told law enforcement that an individual named “David” would come to Brace Today and Advanced Response’s offices and would be seen in MILLETT’s office. Individual-2 identified the defendant DAVID BISHOFF from a photograph as the individual he/she knew as “David.” Individual-2 told law enforcement that BISHOFF would tell MILLETT what to do at the call centers. MILLETT, in turn, would convey BISHOFF’s directions to the employees as, in sum and substance, “what the bosses want.”

18. Midway Connection was incorporated in Utah in or about June 2017, and operated from Richfield, Utah. Midway Connection was owned in the name of the defendant BRYCEN MILLETT’s wife. In June 2017, MILLETT’s wife identified herself in a “Business Depository Accounts Depository Resolution & Agreement” filed with Midway Connection’s credit union as the “President/CEO” of Midway Connection. In its Articles of Incorporation, Midway Connection stated its purpose as “[m]arketing and consulting.” In a December 2018 “Depository Resolution & Agreement” submitted to its credit union and purportedly signed by MILLETT’s wife, Midway Connection stated that its “primary nature [or] (function)” was

“MEDICAL INSURANCE BENEFITS.” Nonetheless, as set forth infra, Midway Connection operated as a call center. In addition, multiple Midway Connection employees have told law enforcement in voluntary interviews that MILLETT’s wife did not work at Midway Connection.

19. Other employees of the Call Centers, whose identities are known to your affiant, told law enforcement that the defendant BRYCEN MILLETT closed the Call Centers in 2019, continuing the Call Centers’ operations in Russia and other foreign nations thereafter.

B. Funding of the Call Centers and Payments to the Defendants

20. Evidence obtained in the course of this investigation demonstrates that the Call Centers were primarily funded by Company-1 and Company-2, corporations with bank accounts located in the United States whose identities are known to your affiant. Based on the investigation to date, Company-1 and Company-2 acted as pass-through shell companies by, among other things, receiving funds from abroad and funneling the funds to pay certain costs of the scheme. For example, Company-1 purchased lists of Beneficiaries and their contact information, and paid for telephone and software licenses for the Call Centers. In addition, funds sent by Company-1 and Company-2 also served to, inter alia, compensate the defendants DAVID BISHOFF and BRYCEN MILLETT.

21. From approximately July 26, 2018 to February 7, 2019, Company-1 transferred approximately \$489,400 to Brace Today, or over 98% of Brace Today’s deposits for that time period.

22. From approximately October 25, 2018 to May 7, 2020, Company-1 transferred approximately \$981,300 to Advanced Response, or over 96% of Advanced Response’s deposits for that time period.

23. From approximately August 2, 2018 to December 16, 2019, Company-1 transferred approximately \$1,019,650 to Midway Connection, or over 97% of Midway Connection's deposits for that time period.
24. Between approximately 2018 and 2021, the defendant BRYCEN MILLETT received over \$1,782,921 transferred through multiple bank accounts from Company-1 and Company-2 to bank accounts in MILLETT's name.
25. Between approximately 2018 and 2021, the defendant DAVID BISHOFF received, in personal accounts and accounts of business entities that he owns and controls, over \$5,276,244 transferred through multiple bank accounts from Company-1 and Company-2.
26. In total, between approximately July 1, 2018 and March 31, 2021,

Company-1 and Company-2 disbursed over \$12 million to the defendants BRYCEN MILLETT and DAVID BISHOFF and domestic entities and accounts that they own or control.

C. Call Center Operations

27. Based on my involvement in the investigation to date, I believe there is probable cause to establish that at least the three Call Centers in Utah that are described supra, and that are associated with the defendants DAVID BISHOFF and BRYCEN MILLETT, were used to perpetrate the fraud scheme.
28. During a voluntary interview in October 2021, a former employee of Midway Connection ("Individual-3"), an individual whose identity is known to the affiant, told law enforcement that he/she was hired as a "benefits specialist" at Midway Connection in 2018 and worked there for approximately ten months. Individual-3 stated that an individual named "Brycen" was the "big boss" at Midway Connection and oversaw five to six call centers in Utah. Individual-3 explained that he/she used a script provided by his/her employer when talking with

patients and his/her calls were all to patients in Texas. Patients could choose up to four of the eight offered medications and Individual-3's goal was to get the patients to commit to taking the prescriptions.

29. At some point when Individual-3 worked at Midway Connection, the business changed the script to incorporate the involvement of purported physician's assistants. In the closing statement of the script, it stated in red bold letters, in sum and substance: "We're going to connect you to a Physician's Assistant." An employee's failure to use that phrase would result in the automatic rejection of the call by other employees tasked with reviewing the call recordings. If a patient agreed to receive medication, Individual-3 attempted to connect the patient to someone his/her employer described as a physician's assistant who was purportedly located in another call center. Individual-3 did not know whether those individuals in fact had credentials as physician's assistants. Often, the purported physician's assistants did not answer the call and were difficult to get in touch with.

30. In addition, Individual-3 had a list of new patients and a second list for repeat patients, i.e., those that had agreed to receive medications on a prior occasion when they had been contacted by the call center. Approximately half of the repeat patients that Individual-3 spoke with complained that they never received the medications they had been promised.

31. In addition, multiple employees of the Call Centers told law enforcement that, during their employment, they called Beneficiaries, falsely implying that they were affiliated with the Beneficiaries' insurance provider, doctors or pharmacies, in order to attempt to obtain information from the Beneficiaries and to convince the Beneficiaries to accept certain medications.

32. Based on information provided to me by Insurer-1, a health insurance company whose identity is known to your affiant, I am aware of complaints made by Insurer-1's Beneficiaries in New York, New Jersey and Texas beginning in early 2020 about solicitation calls Beneficiaries received from third parties. Insurer-1's Beneficiaries reported that these solicitation calls came from several phone numbers, including a toll-free number ending in 5487 (the "5487 Number"). Beneficiaries reported that, during these calls, they were offered pain creams, migraine medication and rash creams, among other medications, at purportedly no cost to them. Several of Insurer-1's Beneficiaries denied ever receiving medications, paying the associated cost-share or having a doctor-patient relationship with the purported prescribing physician, despite claims being made on their account.

33. For example, on or about February 12, 2020, an Insurer-1 Beneficiary ("Beneficiary-1"), an individual whose identity is known to the affiant, contacted Insurer-1 about a solicitation call that he/she received offering "off [sic] the counter" medicine. Beneficiary-1 informed Insurer-1 that the solicitation call originated from a phone number with a 914 area code but the call back number provided was the 5487 Number. Beneficiary-1 told Insurer-1 that the caller had told him/her that they were a service provided by Insurer-1, and that Beneficiary-1 had provided the caller with his/her date of birth and insurance identification number ("Beneficiary ID"). Nonetheless, prescription claim records for Beneficiary-1 reveal that on or about February 13, 2020, one of the Scheme Pharmacies located in Brooklyn, New York ("Pharmacy-1") submitted eight prescription claims to Insurer-1 for reimbursement using Beneficiary-1's name,

date of birth, and Beneficiary ID.⁸ The eight claims were for seven medications, including vitamins and dietary medications, all purportedly dispensed on February 13, 2020. Despite the prescriptions having been submitted for reimbursement by the Scheme Pharmacy, there is no evidence that Beneficiary-1 had ever been examined by or had a doctor-patient relationship with the prescribing physician.

34. On or about June 25, 2020, another Insurer-1 Beneficiary (“Beneficiary-2”), an individual whose identity is known to the affiant, contacted Insurer-1 about solicitation calls that he/she received between approximately June 9, 2020 and June 12, 2020.⁹ Beneficiary-2 stated that he/she had received two pharmacy-related telephone calls. During one call, the caller asked for information, including whether Beneficiary-2 suffered from headaches. During the other call, the caller told him/her that the caller was with a pharmacy and that they were going to send him/her vitamins. Beneficiary-2 stated that he/she checked his/her Insurer-1 account and saw prescription claims submitted on June 12, 2020, by one of the Scheme Pharmacies located in New Jersey (“Pharmacy-2”),¹⁰ for medications that he/she never requested. Beneficiary-2 had not been seen by the prescribing physician (“Physician-1”), whose identity is known to your affiant.

35. Records obtained by the FBI from Insurer-1 reveal that on or about June 8, 2020, Physician-1, who is located in Princeton, New Jersey, whose identity is known to the

⁸ Pharmacy-1, the identity of which is known to the affiant opened in or about 2010. Pharmacy-1 was purchased on or about January 9, 2020 by the co-conspirators through shell owners.

⁹ According to Insurer-1 records, these calls did not originate from the 5487 number.

¹⁰ Pharmacy-2, the identity of which is known to the affiant opened in or about 1987. Pharmacy-2 was purchased on or about May 15, 2020 by the co-conspirators through shell owners.

affiant, electronically signed a prescription for Beneficiary-2 for certain medications. On or about June 12, 2020, Pharmacy-2 submitted at least five prescriptions claims to Insurer-1 for pain medications, dietary medications, and vitamins prescribed by Physician-1 for Beneficiary-2.¹¹ In a voluntary interview taken by Insurer-1, Physician-1 stated that he had worked for a purported telemedicine company whose identity is known to your affiant and which is associated with the co-conspirators. Physician-1 stated, in connection with work for the purported telemedicine company, he reviewed patient records and prescribed medications recommended by others. Physician-1 further stated that he was provided an electronic “Medication Order” form with certain prescriptions already selected.

36. On or about July 7, 2020 to July 8, 2020, two of Insurer-1’s Beneficiaries reported to Insurer-1 that they had received solicitation calls from a caller with the 5487 Number as the call back number. On or about July 8, 2020, an Insurer-1 representative made two calls to the 5487 Number and spoke with two males who stated that they were representatives at “The Group Plan.” The representatives informed Insurer-1 that, (a) The Group Plan had a list of insurance Beneficiaries whom they called to offer over-the-counter medications, including pain creams and multi-vitamins; (b) a doctor wrote the prescriptions; and (c) The Group Plan then worked with independent pharmacies to fill those prescriptions. On one of these calls to the 5487 Number, Insurer-1 inquired about Beneficiary-2. The Group Plan representative indicated

¹¹ On or about July 7, 2020, an Insurer-1 representative contacted Physician-1, who stated that he worked for a telehealth company whose identity is known to your affiant. Physician-1 indicated that he reviewed basic patient medical information, including history for patients who have had a telehealth call with another clinician, and then he signed off on the medication. Based on information provided to the FBI by Insurer-1, I am aware that multiple Insurer-1 Beneficiaries have made complaints to Insurer-1 about prescriptions written by Physician-1 for medications they never received. Many of these Beneficiaries denied having a doctor-patient relationship with Physician-1.

that the company had a local pharmacy for Beneficiary-2 and Beneficiary-2's medications had been approved by insurance, billed, and were ready to be shipped. Nonetheless, Insurer-1 states that Beneficiary-2 did not receive the medications.

37. Multiple employees of the Call Centers told law enforcement agents that the Call Centers used software from a cloud-based call center software company ("Software Company"), whose identity is known to your affiant, to call Beneficiaries. Information provided by the Software Company confirms that the original subscriber for the 5487 Number was Company-1, a shell company without any legitimate business purpose that funded the Call Centers and funneled money to the defendants. The Software Company's records also indicate that, as of October 8, 2020, the account associated with the 5487 Number was registered to Company-3, an international corporate entity whose identity is known to your affiant. In addition, the credit card information on file confirms that Company-1 was initially responsible for payment for the 5487 number. Furthermore, bank records confirm that between approximately June 30, 2018 and February 5, 2019, Company-1 paid the Software Company \$212,501.21. Software Company's client records list "Brett Johnson," the defendant BRYCEN MILLETT's alias, as the subscriber point of contact for the 5487 Number. Software Company's client records list "bry12@protonmail.com," an email address that the defendant BRYCEN MILLETT used to communicate with co-conspirators, as the subscriber email address for the 5487 Number. The Software Company informed law enforcement that it has continued to provide services to Company-3 through the present.

38. The foregoing facts demonstrate that the defendants DAVID BISHOFF and BRYCEN MILLETT owned and controlled the Call Centers and fraudulently used them to

offer and bill for unnecessary medications that were neither properly prescribed nor provided to the Beneficiaries.

IV. The Defendant DAVID BISHOFF and BRYCEN MILLETT's Communications with Co-Conspirators

39. Based on my involvement in the investigation and review of documents, I am aware that the defendants DAVID BISHOFF and BRYCEN MILLETT communicated with their co-conspirators using WhatsApp, among other means of communication.

40. WhatsApp communications obtained pursuant to judicial authorization reveal that in or around June 2019, the defendant BRYCEN MILLETT and co-conspirator Saidazim discussed, among other things, recruiting doctors in Michigan and Alabama for the telemedicine scheme.¹² For example, on June 19, 2019, Saidazim wrote: "Found an MD" and MILLETT responded: "Let's hammer the hell out of MI and AL docs tomorrow." Later on June 19, 2019, Saidazim wrote: "The doctor [] the one that had a gambling problem, he did it so many times, but they don't want to cross state lines . . . He's down for whatever lol." On June 20, 2019, in reference to another doctor, Saidazim wrote: "So, she said she's having issues finding any information on our company . . . & she has no issues signing a contract but she would like to speak to a provider first. I told her we can't cross state lines . . . & NDA & contract would have to be signed . . . 'I feel like it should be a two way street' . . . Fuck B! Fuckkkk." Saidazim explained to MILLETT that she was cold calling doctors using a service called Zip Recruiter. On June 23, 2019, Saidazim wrote MILLETT that another doctor had signed but "didn't fill in the DEA #." MILLETT responded: "Ok so we will hold off on him." Based on my training and

¹² Based on my involvement in the investigation, I am aware that the group running the Scheme Pharmacies has purchased and operated pharmacies in New York, New Jersey, Pennsylvania, Texas, Michigan and Alabama, among other states known to your affiant.

experience, I am aware that, in many states, prescribing controlled substances requires DEA registration.

41. The defendants BRYCEN MILLETT and DAVID BISHOFF's contemporaneous, but separate WhatsApp communications with co-conspirator Saidazim also corroborate BISHOFF's involvement in the scheme. For example, on June 25, 2019, BISHOFF directed Saidazim to provide background information on a potential straw owner of a Scheme Pharmacy. When Saidazim did not reply to BISHOFF's message or answer a subsequent phone call from BISHOFF, or then answer a call from MILLETT, MILLETT then wrote SAIDAZIM: "Dave wants you to call him ASAP."

42. In the course of their WhatsApp conversation, the defendant BRYCEN MILLETT and co-conspirator Saidazim discussed the possibility of going to prison. For example, on May 24, 2019, in discussing their employer, MILLETT wrote to Saidazim: "Ya there's no way out of this now. 5 years in the feds." On June 29, 2019, MILLETT wrote: "Either way – 25-life is the same hahah. . . Put money on my books." Saidazim responded, in relevant part: "I got you!! Make sure you have that extra care package every month."

43. WhatsApp communications obtained pursuant to judicial authorization show that the defendant DAVID BISHOFF and co-conspirator Saidazim also worked together and discussed, among other things, operating Scheme Pharmacies in Alabama and Texas and Saidazim recruiting doctors. For example, on May 8, 2019, BISHOFF sent Saidazim closing information for two Texas pharmacies. On June 19, 2019, Saidazim wrote: "Found my own MD. But she can't start for 2 weeks." BISHOFF responded in pertinent part: "Great job. I need another one. . . Or 2." Later that day, Saidazim wrote: "I didn't have issues with Texas . . . But Mi[c]higan a little tough." BISHOFF replied: "Need Michigan."

44. Thereafter, on June 23, 2019, the defendant BRYCEN MILLETT followed up with co-conspirator Saidazim by WhatsApp about recruiting doctors in Michigan. MILLETT wrote “Hey what’s the Michigan docs name who signed[?]” Saidazim responded with the name of a physician known to your affiant and confirmed to MILLETT that the doctor was ready to begin work. MILLETT and Saidazim then continued to communicate by WhatsApp concerning another Michigan doctor.

45. WhatsApp communications obtained pursuant to judicial authorization reveal that the defendant DAVID BISHOFF communicated with co-conspirator Ebady in furtherance of the scheme, including about control over Scheme Pharmacies, whose ownership was concealed through straw owners. In particular, BISHOFF and Ebady discussed pharmacies’ closings, wiring funds for said closings, and reimbursement checks various pharmacies received from Private Insurers, among other topics. For example, on July 2, 2020, Ebady wrote to BISHOFF: “I’m at [Pharmacy-3]^[13] and there is only one check for \$15.27 from [Insurer-2, whose identity is known to your affiant]. Are we sure the mailing address [sic] for the pbms [pharmacy benefit managers] are the pharmacy? And that they’re sending checks?” On November 16, 2020, Ebady sent BISHOFF a picture of checks made out to a Scheme Pharmacy in Texas from an insurance company totaling \$495,000.

46. The defendant DAVID BISHOFF and Ebady also discussed banking information and log-in information for various Scheme Pharmacy email accounts and systems, revealing their control over Scheme Pharmacies that were purportedly controlled by the straw

¹³ Pharmacy-3, the identity of which is known to the affiant, is located Far Rockaway, New York. Pharmacy-3 was purchased on or before April 1, 2020, by the co-conspirators through shell owners.

owners. For example, on July 17, 2020, BISHOFF asked Ebady for “portal login details” for a pharmacy benefits manager for Pharmacy-3. On November 9, 2020, Ebady sent BISHOFF the pharmacy benefits manager’s portal login information for a different Scheme Pharmacy in Staten Island, New York.

V. The Defendant DAVID BISHOFF’s Involvement with Pharmacy-4

47. On or about May 21, 2019, the defendant DAVID BISHOFF and his co-conspirators acquired Pharmacy-4, a Scheme Pharmacy located in Alabama, the identity of which is known to your affiant. Individual-4, an individual whose identity is known to your affiant, was hired to manage Pharmacy-4. Individual-4 was told by Individual-5, a co-conspirator whose identity is known to your affiant that the new owners would operate Pharmacy-4 on a “pill pack” model, where Beneficiaries would be shipped all of their medications, and that the new owners would market the pharmacy’s services using telemarketing, internet and radio advertisements and call-in numbers, and telemedicine services provided over the telephone.

48. Individual-4 told law enforcement during a voluntary interview that one of the businessmen directing the business was an individual named “Bobby Fischer,” the alias of the defendant DAVID BISHOFF. Individual-4 stated that “Fischer” had multiple pharmacies around the United States, but lived in Utah. According to Individual-4, “Fischer” handled all of the finances and suppliers for Pharmacy-4, including ordering all of Pharmacy-4’s medications.

49. Emails voluntarily provided by Individual-4 show that Individual-4 forwarded patient complaints to the defendant DAVID BISHOFF, under the alias “Bobby Fischer.” As stated in a July 24, 2019 email from Individual-4 to BISHOFF, Pharmacy-4 had received multiple calls from patients, “[a]ll appear to have a similar complaint—they are not

familiar with [], the prescriber, nor do they need the meds we have filled.” In the email, Individual-4 also informed BISHOFF that “[a]udits from insurances are coming in daily.”

50. Individual-6, an individual whose identity is known to your affiant, had worked for Pharmacy-4 since before it was sold in 2019. Individual-6 told law enforcement during a voluntary interview that, after the sale, Pharmacy-6 was run by four consultants. Individual-6 stated that “Bobby Fischer,” the alias of the defendant DAVID BISHOFF, was responsible for ordering all medications.

51. Individual-7, an individual whose identity is known to your affiant, was Individual-4’s assistant and communicated inquiries and complaints to Individual-4 and the defendant DAVID BISHOFF at times, including when Individual-4 was traveling. In a July 29, 2019 email to BISHOFF, under the alias “Bobby Fischer,” and to others, Individual-7 notified them that there were 77 audit requests from two insurers, some of which involved reimbursement requests for prescriptions that Pharmacy-4 had been unable to provide. In addition, Individual-7 notified BISHOFF and the others that “several persons are stating they did not authorize any medications & were told the meds would be ‘Free’?” Individual-7 told BISHOFF and the others that “[p]atients have been calling their insurance companies and reporting fraud by the pharmacy.”

52. On August 12, 2019, less than a month after Pharmacy-4 had been purchased by a straw owner for the conspiracy and the defendant DAVID BISHOFF had been involved in day-to-day operations, the Alabama Board Pharmacy issued a “Notice of Emergency Suspension of Permit,” which was forwarded to the defendant DAVID BISHOFF. The notice stated inter alia that Pharmacy-4 had “[d]ispensed drugs pursuant to prescriptions which had not

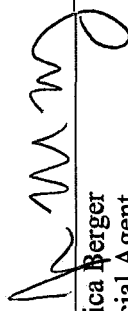
been validly or authentically executed or signed by a physician.” Ultimately, the Alabama Board of Pharmacy revoked Pharmacy-4’s license.

53. On September 12, 2019, Individual-7 emailed the defendant DAVID BISHOFF and others, notifying them that Insurer-3, whose identity is known to your affiant, had written Pharmacy-4. Individual-7 stated that Insurer-3 “stated there has been billing for over 1.7 [sic] million dollars of claims that are all ‘Invalid’, are requesting payment by the 15th.”

CONCLUSION


54. Wherefore, your affiant respectfully requests that arrest warrants be issued for the defendants DAVID BISHOFF and BRYCEN MILLETT so that they may be dealt with according to law.

55. Because public filing of this document could result in a risk of flight by the defendants DAVID BISHOFF and BRYCEN MILLETT, who have not yet been apprehended, as well as jeopardize the government’s investigation, your affiant respectfully requests that this affidavit and the arrest warrants be filed under seal until further order of the Court, except that law enforcement officers may disclose this affidavit as necessary to effectuate the arrest and arraignment of the defendants.



Jessica Berger
Special Agent
Federal Bureau of Investigation

Sworn to before me via telephone on this
7th day of March, 2022



THE HONORABLE TARYN A. MERKL
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK